

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>KENNETH R. SELLERS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIV-06-1249-R</b>
	)	
<b>DR. HOLCOMB, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

Before the Court are the Report and Recommendation of United States Magistrate Judge Bana Roberts entered October 31, 2007 [Doc. No. 56] and Plaintiff's Response and Objection filed November 21, 2007 [Doc. No. 58].

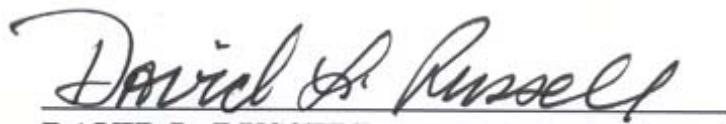
In his Response and Objection, Plaintiff seems to object to the Order of the Magistrate Judge entered October 31, 2007 [Doc. No. 55] denying Plaintiff's motions to appoint counsel, stating that each relevant factor weighs in favor of appointing counsel in this case. Plaintiff also objects to the recommended denial of Plaintiff's motion for default judgment against Correctional Healthcare Management, Inc. based upon the facts that that entity was served on February 23, 2007 and never filed an Answer herein.

The Court disagrees with Plaintiff's assertion that all of the factors relevant to appointment of counsel for Plaintiff weigh in favor of such appointment. For the reasons stated by the Magistrate Judge in her October 31, 2007 Order, appointment of counsel for Plaintiff at this time is not warranted.

Although Correctional Healthcare Management Inc. (“CHM”) was served and failed to file an Answer herein, that entity caused Healthcare Management of Oklahoma, Inc. (“CHMO”), which is actually the entity which provides healthcare to inmates at the OCDC, is owned by CHM and is obviously the entity Plaintiff intended to sue, to respond to Plaintiff’s Complaint. Under these circumstances, and for the reasons cited by the Magistrate Judge, entry of default judgment against CHM is not appropriate.

In accordance with the foregoing, the Report and Recommendation of the Magistrate Judge is ADOPTED in its entirety; the motions of Defendants CHM, CHMO, Holcomb and Hoisington for dismissal based upon failure to state claims on which relief can be granted are DENIED as moot, Plaintiff having filed an Amended Complaint [Doc. Nos. 53 & 57]; the motion of Defendants Holcomb and Hoisington for dismissal based upon insufficient service of process is GRANTED, service upon those Defendants is quashed and Plaintiff is GRANTED a permissive extension of time until January 27, 2008, in which to effect service upon those Defendants and Plaintiff’s motion for default judgment against Defendant CHM [Doc. No. 48] is DENIED.

**It is so ordered this 28<sup>th</sup> day of November, 2007.**

  
DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE